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Dear Sir/Madam:

Re: Proposed Amendments to National Instrument 45-106 *Prospectus and Registration Exemptions* Relating to the Short-term Debt Prospectus Exemption and Proposed Securitized Products Amendments (the "Proposed Amendments")

The Investment Industry Association of Canada (the "IIAC") appreciates the opportunity to comment on the above noted Proposed Amendments.

The IIAC wishes to take this opportunity to thank the Canadian Securities Administrators (the "CSA") for noting the concerns expressed by the IIAC in our 2011 comment letter relating to the CSA Proposed Securitized Products Rules (the "2011 Proposals"). In that submission, we highlighted our concern that

the 2011 Proposals would have created a separate system of regulation for securitized products layered on top of the existing regulatory system. The impact of the 2011 Proposals would have been to severely affect the use of securitization as a funding alternative, create unnecessary burdens and unjustly stigmatize securitized products as an investment option. It was our view that the 2011 Proposals were a disproportionate response by the CSA to any perceived deficiencies in the existing system.

The IIAC also indicated that the 2011 Proposals appeared to focus on regulating risks that generally did not exist in the Canadian bank-sponsored securitized product marketplace, including the originate-to-distribute model or synthetic financial assets, such as collateralized debt obligations.

The CSA has noted these points and has significantly revised its Proposed Amendments in order to recognize that a comprehensive reform of securitized products regulation is not warranted.

The IIAC also would like to acknowledge that the CSA has taken into account our 2009 Asset Backed Commercial Paper ("ABCP") comment letter in respect to its CSA Consultation Paper 11-405. In that submission, the IIAC set out a proposal whereby short-term issuers could avail themselves of the prospectus exemptions but also provide additional disclosure to investors, striking the right balance between investor protection and the cost to issuers. The IIAC proposal suggested the requirement for an Information Memorandum, a monthly Investor Report and timely disclosure of material changes. Additionally, it would require two credit ratings. Furthermore, such an exemption would be available for "plain vanilla" ABCP based upon the Bank of Canada's criteria (the "BoC criteria") for accepting ABCP as collateral under its standing liquidity facility. On the other hand, we suggested that ABCP products based on synthetic assets would have to rely upon another exemption to distribute such debt without a prospectus, such as the accredited investor exemption or the minimum investment amount exemption.

In both IIAC submissions, we pointed out the economic importance of the ABCP market in Canada and the continued health and success of the bank-sponsored ABCP market. It is an important source of funding for a number of companies in Canada and ultimately facilitates the ability of those companies to continue to provide credit to their retail and commercial customers. Investor demand for bank-sponsored ABCP outstrips supply, indicating that the current levels of disclosure and structure of the product in Canada is accepted by the market. It is important that in implementing any new rules impacting the short-term securitization market, the right balance is struck between protecting investors' interests and maintaining the viability of the ABCP market. We feel that the proposed changes will impose additional and unnecessary regulation that will be costly and onerous to implement which could cause some current bank participants to exit the market.

The Canadian ABCP market has gone through a number of changes relative to the market that existed prior to August 2007, including: (1) the non-bank sponsored ABCP market no longer exists; (2) the requirement for the use of global-style liquidity arrangements in place of market disruption style liquidity arrangements; (3) increased disclosure and transparency for investors and regulators through the BoC criteria, more informative rating agency disclosure and revised investor reports being produced by the bank-sponsored ABCP conduits; and (4) all bank-sponsored ABCP conduits are now rated by at least two rating agencies. With these changes in place, investor concerns have been addressed and demand for the product remains strong. This demonstrates the self-correcting nature of the market and supports the fact that a product-specific set of rules is not necessary.

Notwithstanding the IIAC's position that a separate set of rules for securitized products is not required, to the extent that the CSA determines to implement a separate regime, set out below are our responses to the questions posed by the CSA in regards to the Proposed Amendments.

QUESTIONS

If we have not answered a question posed by the CSA, we do not have a comment on that question. Attached to this letter are several appendices that outline our comments on the provisions set out in section 2.35 of National Instrument 45-106 ("NI 45-106") and the items contained in Forms 45-106F7 and 45-106F8.

Proposed Short-Term Debt Amendments:

1. / 2. Modified Split Rating Condition

The IIAC supports the CSA's objective of refining the short-term debt exemption eligibility criteria. Ensuring market fairness and efficiency while maintaining a defined minimum credit quality threshold will serve the long-term interest of the short-term debt capital markets. The proposed initial Rating Threshold Condition and secondary Modified Split Rating Condition, as defined, will capture all of the currently active programs in the Canadian market.

The introduction of the Modified Split Rating Condition as a secondary measure will remove a regulatory disincentive to seek additional ratings for certain issuers that exist today, while still ensuring that minimum credit quality standards are maintained.

We note the CSA comments and agree that the short-term rating scales of the stated designated rating organizations are not perfectly correlated and therefore definitely drawing a "line" between the scales that best represents a similar credit risk is not possible. However, in order to better align the short-term rating scales to be more closely correlated than currently proposed, it is our recommendation that the A-1 (low) Canadian Commercial Paper ("CP") scale of Standard & Poor's be the minimum rating that satisfies the Modified Split Ratings Condition.

In addition, we note that there is a small subset of issuers that has previously received exemptive relief who will not satisfy the proposed Modified Split Rating Condition. In order for those issuers to have future access to the CP market, we believe that there should be a grandfathering provision to allow for the continuation of the exemptive relief for the remaining period of the original order. Thereafter, those issuers and other issuers not meeting the ratings requirements would be able to seek continuing exemptive relief.

3. Credit Rating Requirements

We believe that the use of third party credit ratings strikes the right balance between appropriate investor protection and market efficiency functions. At this time, the use of credit ratings as a reference point is the best readily available metric for determining the credit quality standards for CP.

4. Availability of the Short-Term Debt Prospectus Exemption

We do not believe the addition of this condition is appropriate. Rating agencies regularly put issuers on ratings watch with ultimately no action being taken. We believe the potential consequences to an issuer of removing an integral source of liquidity, especially in light of the uncertainty around the rating action outcome, far outweigh any investor protection that the provision would provide. We believe the combination of the Rating Threshold Condition and the Modified Split Rating Condition is sufficient to achieve the CSA objectives of investor protection and financial stability.

Proposed Securitized Products Amendments:

1. Use of Other Prospectus Exemptions for Certain Short-term Securitized Products

(a) The IIAC believes that all types of short-term securitized products should be allowed to be sold on a prospectus-exempt basis to sophisticated investors even if the products do not satisfy the Short-term Securitized Products Prospectus Exemption. Sophisticated investors in Canada that purchase short-term securitized products are more than capable of making their own investment decisions and do not need an overly restrictive statutory regime. Furthermore, that regime may effectively eliminate the availability of a short-term investment opportunity for such investors as the time and expense of issuing these products pursuant to a prospectus would be unduly burdensome. To prohibit these types of transactions would again demonstrate a differential treatment within the securitized market, which is unwarranted. In addition, our recommended approach is consistent with the IIAC's 2009 submission.

(b) In today's Canadian short-term securitized product market, we believe that most, if not all, issuances would fit within the Proposed Amendments and would not require additional prospectus exemptions. That said, we believe the Proposed Amendments should be prospective and not punitively restrictive – again, the Proposed Amendments should balance investor protection with maintaining an active and healthy market. We believe that allowing short-term securitized product to be issued under additional prospectus exemptions that are targeted toward sophisticated investors is appropriate. We recommend that the accredited investor prospectus exemptions be available, with consideration given to modifying the fee structure and reporting requirements (i.e. exempt distribution reports) associated with this prospectus exemption to recognize the uniqueness of the ABCP market.

IIAC members indicated that the manner in which the fees are structured and the onerous filing requirements make it overly expensive and unduly burdensome for short-term products to utilize the accredited investor exemption and therefore, for additional exemptions to be practical, modifications to the fee and reporting requirements to reflect the short-term nature of these transactions would be needed.

(c) The definition of "securitized product" is quite broad and encompasses most other types of structured or structured finance products in the market today. However, the IIAC suggests that in order to account for novel products which may be introduced in the future and are not currently contemplated, the CSA should consider including some form of basket provision to allow for exemptive relief with respect to such novel products.

2. Two-Credit Ratings Requirement for the Short-Term Securitized Products Prospectus Exemption

As outlined in our 2009 comment letter, the IIAC supports the introduction of two credit ratings as a requirement for use of the Short-term Securitized Products Prospectus Exemption. This is consistent with the BoC criteria for accepting ABCP as collateral under its standing liquidity facility and consistent with other jurisdictions, such as the U.S.

However, we think that the minimum rating requirements as outlined in NI 45-106, section 2.35.2(a) are too restrictive for a number of reasons. A number of the rating agencies have methodologies that do not allow the rating on the ABCP to be higher than the rating of the liquidity provider. By limiting the ratings of the ABCP to the highest short-term ratings from each liquidity provider, would preclude most banks from using certain rating agencies for their ABCP programs (based on the bank's current short-term ratings). Even those that could use those rating agencies would risk not having their ABCP eligible

for distribution under the exemption if there was a downgrade of their short-term ratings. Rating requirements at these proposed levels for ABCP are much higher than those seen in other jurisdictions.

In addition, the proposed minimum ratings would inhibit the return of an ABCP market for lower rated ABCP as existed prior to August 2007. We think the CSA should be developing rules that are sufficiently protective but not unduly restrictive as to inhibit future growth of the market. We feel certain provisions contemplated by the Proposed Amendments would provide sufficient investor protection to allow for the minimum ratings we are recommending. Accordingly, we propose that the required ratings for ABCP should be revised to align with the minimum rating scale that is proposed for commercial paper.

In addition, the IIAC is not in agreement with proposed section 2.35.2(a)(ii) which would eliminate the Short-term Securitized Products Prospectus Exemption if an issuer reasonably expects that an announced ratings review will result in a rating being withdrawn or downgraded below the threshold requirements. We believe this places an unfair onus on the issuer with the potential consequences to an issuer that far outweigh any investor protection that may be provided by the provisions. Under the proposed provisions, an issuer's incorrect evaluation could ultimately lead to such issuer ceasing to issue securitized product without the rating actually being withdrawn or downgraded below the threshold level. Such an error by the issuer would essentially put it out of business as investors will likely invest elsewhere. We believe investors in Canadian short-term securitized products are sophisticated investors who are more than capable of making an investment decision based on their reading of a rating agency's announcement.

3. Liquidity Supports Requirements

b) As far as the IIAC is aware, for the Canadian bank-sponsored ABCP market, it is not common that a conduit sponsor is not also the liquidity provider to the conduit.

c) As stated above, we agree with the approach that a liquidity provider be required to have two credit ratings.

d) The proposed minimum long-term credit rating levels for liquidity providers are appropriate. However, to keep consistency with rating agency methodologies, the IIAC requests that the short-term credit ratings be included as well, such that the liquidity provider needs to maintain a minimum long-term **or** short term rating from the relevant rating agency.

e) The IIAC does not envision any problems with the proposal that the liquidity provider be prudentially regulated by OSFI or by a provincial regulatory authority. This would not cause problems for current ABCP programs in Canada. We are not aware of any ABCP programs active in Canada in which the liquidity provider is a foreign bank which is not regulated by OSFI.

As with the equivalent proposals for short-term debt and short-term securitized products, the IIAC does not believe that proposed section 2.35.2(a)(iv)(D) is appropriate. We believe the potential consequences to an issuer are excessively punitive relative to the investor protection provided by the elimination of the prospectus exemption if an issuer reasonably expects that an announced ratings review with respect to a liquidity provider will result in the liquidity provider's rating being withdrawn or downgraded below the threshold requirements. Again, this is an unnecessary subjective criterion and places an unfair onus on the issuer with the potential consequences to an issuer if it makes the wrong evaluation and ceases to issue securitized product without the rating then being withdrawn or downgraded below the threshold level far outweighing any investor protection provided by the provision. Such an error by the issuer would essentially put it out of

business as investors will go elsewhere. We believe investors in Canadian short-term securitized products are sophisticated investors that are more than capable of making an investment decision based on their reading of a rating agency's announcement.

f) The IIAC has concerns generally with permitting foreign banks to act as liquidity providers, as their local regulators may have different capital requirements than OSFI. This is particularly a concern if the capital requirements for non-OSFI regulated banks are lower than those that would be applicable for OSFI regulated institutions. Requiring foreign banks to be subject to Basel III may not sufficiently address these concerns as the application of Basel III will not be uniform in all jurisdictions, and the inequities may still be present. This would create an ABCP market with some liquidity providers subject to less rigorous capital requirements than those instituted by OSFI.

g) The IIAC agrees with the proposed circumstances whereby the liquidity provider is required to provide funding in all circumstances other than the bankruptcy or insolvency of the conduit or where the amount of defaulted underlying assets exceeds the amount of credit enhancement applicable to that asset pool. It may be worth clarifying that the amount of defaulted assets used in the calculation takes into account an assumed recovery rate on those assets.

4. Availability of the Short-term Securities Products Prospectus Exemption

The IIAC agrees that it is appropriate that the Short-term Securitized Products Prospectus Exemption be available for short-term securitized products that are convertible or exchangeable into or accompanied by a right to purchase another short-term securitized product that would qualify for the exemption.

5. Assets that Conduit Should be Permitted to Hold

The IIAC does not believe it is necessary for the CSA to prescribe a list of eligible assets. Restricting eligible assets to a prescribed list may inadvertently exclude assets that would otherwise be permitted for exemptive relief. For example, the current list does not include real estate, vehicles, equipment or other assets that conduits may take ownership of in the normal course of a securitization transaction. If the intent of the CSA is to restrict conduits from funding 'non-traditional assets', we support that goal and we believe this may be more effectively accomplished through a negative pledge to not fund such 'non-traditional assets'. We would propose the following negative pledge of the conduits, as required by the Bank of Canada:

The conduit does not (and will not) have exposure to the following assets:

1. Highly structured products such as collateralized debt obligations (CDOs) and asset-backed securities that are secured against or representing interests in managed (but not revolving) portfolios of multiple asset classes for which sequentially subordinated tranches of securities are issued, with the lowest tranches absorbing the first dollar of credit losses.

2. Securities that are themselves backed by exposures to CDOs or similarly highly structured products.

3. Securities that have direct or indirect exposure to credit-linked notes, credit default swaps, or similar claims resulting from the transfer of credit risk by means of credit derivatives (except for the purpose of obtaining asset-specific credit protection for the ABCP program).

In addition, the IIAC suggests that this pledge be added as the language for Item 3.5 of Form 45-106F7.

6. Triggers for Timely Disclosure Reports

The IIAC has significant concerns with the triggers which would require a conduit to provide timely disclosure reports as listed in section 2.35.4(6). Under the proposal, a timely disclosure report would be required when there is:

(a) a change to the information required in the most recent monthly disclosure report; or

(b) an event that the conduit would reasonably expect to significantly affect either the payment on that class of short-term securitized product or the performance of the assets in the asset pool.

The IIAC feels that the requirement set out in subsection (a) fails to recognize the nature of a conduit program. The transactions within a conduit program change on a near daily basis as individual transactions submit collections to repay outstanding short-term debt or make draws under their commitments and increase the amount of outstanding short-term debt. It is an understatement to say that subsection (a) would place an excessively burdensome administration requirement on the conduit that is not proportional to any investor protection that may be provided by this proposed requirement. In our opinion, the additional investor protections provided by the ratings requirements on short-term securitized product and the liquidity provider requirements will provide investors in short-term securitized products with a level of protection not seen in many, if any, other securities and obviate the need for subsection (a).

Furthermore, as stated in our response in Appendix C, we believe that subsection (a) should be removed and that subsection (b) should be revised to require disclosure only when there is a change that is reasonably expected to impact the timely repayment of the ABCP on maturity (i.e. where the available liquidity support is less than the amount of ABCP outstanding because the amount of defaulted assets exceeds the amount of available credit enhancement).

7. No Stand-Alone Rule for Short-Term Securities Products Rule Exemption and Forms

The IIAC is of the view that the new exemption should remain part of NI 45-106 both in terms of consistency and clarity with respect to prospectus exemptions. To prevent any confusion between the two exemptions, we recommend differentiating the short-term debt prospectus exemption and the proposed short-term securitized products prospectus exemption by using different headings and/or section numbers.

8. Information and Reporting to Regulators

Given the nature of the conduit market in Canada and the daily distributions by those conduits, the IIAC believes it is appropriate that the Proposed Amendments do not contemplate or require reporting by a conduit on each distribution due to the administrative burden this would entail. The IIAC is generally of the opinion that the monthly rating agency reports on the Canadian market and the monthly investor reports produced by the bank-sponsored ABCP conduits should provide the CSA with sufficient information for monitoring purposes.

a) The CSA has indicated that comprehensive regulatory intervention is not necessary for the securitized market in Canada and that systemic risk concerns and investor protection concerns have been mitigated and/or addressed in the current market. As such, further to our general comments above, the IIAC questions what additional information should be required by, or available to, securities regulators and other systemic risk regulators from the conduits regarding ABCP distributed, outstanding or traded beyond what is already being contemplated under the Proposed

Amendments, subject to our comments in this letter. We note that the Proposed Amendments contemplate, amongst other information, monthly reports being reasonably available to securities regulators. The IIAC believes that the monthly reporting information, in addition to the other available information as noted above, is sufficient to allow regulators to monitor market trends or risk build-up. Monthly conduit reporting is also sent to rating agencies, who use this information to prepare their own monthly reports. These rating agency reports are an additional source of information for regulators to use in monitoring market trends of risk build-up. Any additional information that issuers would be required to prepare would simply increase costs, create an additional administrative burden and would not, in our opinion, provide any further useful information.

b) The most efficient means of providing additional reporting for ABCP issuers would be simply to provide the information when requested by the regulators either directly or through posting on a secure website accessible to the regulators.

c) The IIAC is uncertain what specific information is being considered when the CSA asks about the appropriate reporting frequency for issuers if the monthly report is not being considered. Given the fact that global-style liquidity exists and the short-term nature of the securities, we are unclear as to what additional investor protection concerns would be addressed through further disclosure.

Yours sincerely,

M. Alexander

Appendix A

National Instrument 45-106 Prospectus and Registration Exemptions

Limitations on short-term securitized product exemptions - Section 2.35.2

Section 2.35.2(a)(i) – With respect to the ratings in section 2.35.2(a)(i), the IIAC is of the view that the rating scale should be revised to be the same scale proposed for commercial paper or at least to align with the minimum ratings of the liquidity providers in section 2.35.2(a)(iv)(C) – assuming the change is also made to incorporate short-term ratings in section 2.35.2(a)(iv)(C) as noted below. The methodology used by a number of rating agencies does not allow for a higher rating on the ABCP than the rating for the liquidity provider. As a result, the proposed ratings in section 2.35.2(a)(i) are too restrictive and would limit the ability of most banks to use certain rating agencies. It also places additional liquidity risk on the financial institutions if there is a slight downgrade to a liquidity provider rating. The financial institution could be put in a situation where they are still highly rated, and still an eligible liquidity provider, but are no longer able to place ABCP under this exemption even though there may still be demand from investors for the product. Furthermore, changing these ratings to align with the proposed scale for commercial paper would be comparable to other jurisdictions, such as the U.S. The proposed ratings as currently drafted would impose a higher threshold than in other jurisdictions. Finally, as noted in our letter, the IIAC believes that the other protections available are sufficient for investors, and that the CSA should not be overly restrictive in the rules it is developing, but should also allow for the potential future growth of the market.

Section 2.35.2(a)(ii) – As specifically noted in our letter, we believe that this section is unnecessary and should be removed. It would require subjective decisions regarding when this situation would arise. The IIAC feels that the credit rating requirements provide sufficient protection.

Section 2.35.2(a)(iv)(C) – This requirement should be consistent with rating agency criteria and incorporate short-term ratings.

Section 2.35.2(a)(iv)(D) – Similar to our response to section 2.35.2(a)(ii) the IIAC is of the view that that this section is unnecessary and should be removed. It would require subjective decisions regarding when this situation would arise. We believe the credit rating requirements provide sufficient protection.

Section 2.35.2(b) – This provision suggests that the exemption would not be available if the securitized product is ranked pari passu with, or subordinate to, other classes or series of short-term securitized product. There are liquidity back-stops in place, and the IIAC believes that with sufficient disclosure, investors should have the option to invest in these products. It should be up to the market to determine if there is demand for this product.

Furthermore, subordinated securitized products should be able to use this exemption. Again, investors should be able to decide if the product is appropriate for them. These products may have higher premiums, and would still have the increased protections from liquidity back-stops and disclosure.

There may also be situations where a trust or special purpose entity is used to issue multiple different series of notes, which may include an ABCP tranche and other separate medium-term note series ("MTNs"), which may also include a money market tranche. Under the indenture supplements, the assets for each series would generally be firewalled from each other and the flexibility to have this type of structure should be permitted. Again, in light of the other protections in place, we believe that the

CSA should not be unduly restrictive in developing its rules and should leave room for future growth in the market.

Section 2.35.2(c) – As stated in our response to Question 5, the IIAC does not believe it is necessary for the CSA to prescribe a list of eligible assets. Restricting eligible assets to a prescribed list may inadvertently exclude assets that would otherwise be permitted for exemptive relief. For example, the current list does not include real estate, vehicles, equipment or other assets that conduits may take ownership of in the normal course of a securitization transaction. If the intent of the CSA is to restrict conduits from funding 'non-traditional assets', we support that goal and we believe this may be more effectively accomplished through a negative pledge to not fund such 'non-traditional assets'. We would propose the following negative pledge of the conduits, as required by the Bank of Canada:

The conduit does not (and will not) have exposure to the following assets:

> 1. Highly structured products such as collateralized debt obligations (CDOs) and asset-backed securities that are secured against or representing interests in managed (but not revolving) portfolios of multiple asset classes for which sequentially subordinated tranches of securities are issued, with the lowest tranches absorbing the first dollar of credit losses.
>
> 2. Securities that are themselves backed by exposures to CDOs or similarly highly structured products.
>
> 3. Securities that have direct or indirect exposure to credit-linked notes, credit default swaps, or similar claims resulting from the transfer of credit risk by means of credit derivatives (except for the purpose of obtaining asset-specific credit protection for the ABCP program).

Exceptions relating to liquidity providers - Section 2.35.3

Section 2.35.3(2) – This provision requires clarification regarding how to determine the aggregate value of the assets. Despite paragraph 2.35.2(a)(iii), for the purposes of section 2.35.1, an agreement with a liquidity provider may provide that a liquidity provider is not obligated to advance funds in respect of a class of short-term securitized product that exceed the sum of the following:

(a) the aggregate value of the **non-defaulted** assets in the asset pool to which that class of short-term securitized product relates; and

(b) the amount of credit enhancement applicable to the asset pool to which that class of short-term securitized product relates.

The IIAC also questions whether this level of detail is even needed and whether the rating requirements for the ABCP and liquidity providers are not sufficient protection.

Disclosure requirements - Section 2.35.4

Section 2.35.4(2)(c) – The IIAC requests clarification regarding the expectations of how to satisfy the disclosure requirement to "make reasonably available". Companion Policy 45-106 states that to "make documents reasonably available could generally be satisfied by a conduit posting the document to a website maintained by it or on behalf of it". The IIAC suggests that section 2.35(4)(2)(c) should similarly be able to be satisfied through the posting of materials by the conduit onto a website maintained by it or on its behalf.

Section 2.35.4(5) – The IIAC requests that the timeframe to make Form 45-106F8 reasonably available be extended to 50 days. Issuers rely on unrelated third parties for information required in Form 45-

106F8. It is not reasonably feasible at this time that issuers would be able to comply with the 30 day requirement. As an example, typically the reporting period for a transaction relates to a calendar month. Information about the activity for the transaction during this reporting period is provided by the servicer to the conduit administrator a few days prior to the settlement date for that program. The settlement dates for transactions are typically staggered throughout the month, with some potentially occurring 27 to 28 days after the reporting period calendar month end. Information for Form 45-106F8 requires the receipt of portfolio reports for all transactions in the conduit. Given the reliance on 45-106F8 by investors, there must be a reasonable time following receipt of the last portfolio report from the servicers for the conduit administrator to aggregate the information to complete Form 45-106F8 and ensure that those reports are properly reviewed and approved. In the example given above, the conduit administrator may only have a few days to do this if the 30 day requirement is kept, which is not sufficient time to properly prepare and review the reports.

Section 2.35.4(6) – Conduit administrators and investors should not be overburdened with producing and receiving unnecessary disclosures. As currently drafted, section 2.35(6) is overly broad and will be burdensome from an administrative and cost perspective to conduit administrators. Section 2.35.4(6)(a) is very broad and with the requirement for timely disclosure of events in section 2.35.4(6)(b), as suggested below, it is unnecessary and should be removed. Section 2.35.4(6)(b) is currently too subjective regarding what is to be disclosed; it should be revised to focus on material events that could impact investors. Paragraphs (i) and (ii) should be revised to require a timely disclosure report if there is (i) an event which may affect the liquidity available to the conduit (i.e. downgrade or loss), or (ii) a significant default (i.e. failure to make payment).

Section 2.35.4(7) – Given the requested revisions to the scope of section 2.35.4(6), then *two business* days is reasonable to produce a timely disclosure report. Section 2.35.4(7)(a) should be revised to allow for *two business* days as opposed to the proposed two calendar days. If a trigger occurs on a Friday, it may be difficult for an issuer to satisfy their obligation to provide the report by a Sunday.

Additionally, issuers should be able to satisfy the requirement to promptly provide a timely disclosure reports by posting the report on a website, which in the Companion Policy was a permissible method to reasonably make available disclosure.

Appendix B

Form 45-106F7 *Information Memorandum for Short-term Securitized Products*

The IIAC reiterates its concerns as set out in our 2011 submission that many of the requirements in Form 45-106F7 are too transaction specific. Many of the transaction specific disclosure requirements in Form 45-106F7 will require an issuer to update the disclosure in its information memorandum ("IM") on an on-going basis with information that may not be material to investors or is more appropriate for disclosure in an issuer's on-going monthly disclosure report required by Form 45-106F8.

To meet the proposed requirements, the on-going updating will likely be required as frequently as monthly, or even several times within a month, depending on transactions entered into or amended or any other changes, and accordingly, is overly burdensome and duplicative of information that would be provided in the monthly reports. Instead, the IM should be a relatively static document consistent with the current forms of IMs utilized in the market. The IM should focus on program-level disclosure, such as the structure and operation of the program, and any material transaction specific information that may vary from period to period should be disclosed in an issuer's periodic disclosure. The IM should be viewed as a more static document, whereas the monthly disclosure report should capture any updates.

Therefore, as in the IIAC's 2011 submission, many of the comments on Form 45-106F7 below are to restrict the disclosure to program-level information as opposed to transaction specific information.

Instructions

An additional instruction should be added clarifying that negative answers to prescribed items or inapplicable items need not be included in the IM. It is confusing for investors to read negative statements confirming that an item does not apply to the issuer.

Instruction 5 – The required terms to be disclosed in the issuer's glossary are overly broad. We request that the term "principal obligor" be removed. There are often legislative privacy restrictions and/or contractual privacy provisions that would prevent the disclosure of the identity of the "principal obligor". In addition to privacy concerns, we do not believe that this information is necessary for investors and may negatively impact the market. Other jurisdictions such as the U.S. do not require this disclosure, and if it is required in Canada, sellers may decide not to participate in the Canadian market due to concerns over conflicting legal requirements between the Proposed Amendments and privacy legislation. Further, to our knowledge investors have not required this information as a pre-condition to investing in bank-sponsored ABCP. The Bank of Canada similarly does not require this disclosure.

The definition of "significant party" is overly broad. We are especially concerned with the inclusion of the requirement to disclose the originator of the assets both directly and indirectly through the requirement to disclose persons involved in organizing or initiating the transfer of assets to the conduit, managing an asset pool in a conduit and collecting payments generated by an asset pool. Without clearly stating that the disclosure requested in respect of these "indirect" categories is limited to the administrator of the conduit, it is arguable that the seller/originator of the asset pool would also be captured by these categories.

A principal characteristic of conduit securitizations has been the confidentiality of the identity of the seller/originator of an asset pool. Current practice in the Canadian securitization market has been to not disclose this information. Investors have not required this information to participate in the market. In addition, sellers have made it clear to us that they are not in favour of this disclosure as it would eliminate the confidentiality of their individual transactions and potentially put them at a disadvantage in negotiating terms with individual conduits as each conduit would be aware of some of the principal terms of the seller's other conduit transactions. The inclusion of this disclosure requirement, we believe, will be a material disincentive for sellers to participate in the Canadian securitization market.

The importance of the securitization market to the Canadian economy has been well recognized. For the reasons noted above, the IIAC is of the view that the draft disclosure requirements regarding obligors and sellers/originators have the potential to damage the Canadian securitization market by discouraging the participation of sellers/originators. Accordingly, we feel the potential negative consequences of these disclosure requirements far outweigh any investor protection provided by the provisions, especially in light of the other requirements being contemplated to access this prospectus exemption. Indeed, in attempting to protect investors, these draft disclosure requirements may in fact have the unintended consequence of greatly limiting an investor's investment opportunity. The IIAC does not believe any purpose is served by Canada distinguishing itself on this point from other markets.

We would also recommend that the collector of payments (i.e. the servicer) be removed as in most cases, the servicer is the originator or an affiliate of the originator, so this would pose the same concerns as outlined above for the disclosure of the originator of the assets.

Item 1: Significant Parties to Securitization Transaction

Item 1.1 – Please see our response regarding the Instructions. The "principal obligor", the originator of assets and the collector of payments on the assets should not be included as a significant party, and consequently, the issuer should not be required to identify these parties for the reasons stated above.

Item 1.2 – We are concerned that this provision is overly broad with respect to requiring disclosure of certain persons having performed a similar role for another conduit. It is not clear how this information is relevant unless the situation was identical to the current conduit. As a result, it is not overly useful and in fact, appears targeted towards specific individuals who may have been involved with the ABCP crisis. We believe this Item should be deleted.

Item 1.4 – This Item should be limited to disclosure pertaining to the sponsor and not the other entities listed. However, if the CSA is not requesting legal names of these other parties, the IIAC is of the view that this disclosure can remain but should be clarified with respect to this fact. In addition, disclosure regarding these other entities would be transaction-specific, and should therefore be included in the monthly disclosure report as opposed to the IM.

Item 1.5 – This Item should be clarified to specify that it requires a general description of the issuer/servicer.

Item 2: Structure

By referencing "one or more" diagrams, this Item suggests that it is requesting transaction-specific information as opposed to program-level. This Item should be clarified to refer to program-level disclosure. We believe a simple diagram setting out the basic structure of a securitization transaction, which is currently standard practice, is sufficient for IM purposes. It would be extremely onerous to provide the information on a transaction basis and as we have previously stated, the IM should be a static document.

Item 3: Eligible assets

Item 3.1 – This Item should be clarified to refer to program-level disclosure and not transaction specific disclosure. Furthermore, we request clarification on paragraphs (b) and (c) as typically there are no specific restrictions on these items. Each transaction within the conduit is independently structured and enhanced to a high rating standard and there is no cross-collateralization between transactions. As previously stated there are privacy concerns related to the disclosure of the originator of assets and accordingly, paragraph (d) should be removed.

Item 3.3 – This Item is not necessary given the required disclosure in Item 3.1.

Item 3.4 – This Item should be clarified to refer to program-level disclosure and not transaction specific disclosure.

Item 3.5 – We recommend that the language from the Bank of Canada be adopted for this Item for consistency purposes. The sample language is as follows:

> The conduit does not (and will not) have exposure to the following assets:
>
> 1. Highly structured products such as collateralized debt obligations (CDOs) and asset-backed securities that are secured against or representing interests in managed (but not revolving) portfolios of multiple asset classes for which sequentially subordinated tranches of securities are issued, with the lowest tranches absorbing the first dollar of credit losses.
>
> 2. Securities that are themselves backed by exposures to CDOs or similarly highly structured products.
>
> 3. Securities that have direct or indirect exposure to credit-linked notes, credit default swaps, or similar claims resulting from the transfer of credit risk by means of credit derivatives (except for the purpose of obtaining asset-specific credit protection for the ABCP program).

Item 4: Liquidity support and credit enhancement

Item 4.3 - This Item should be clarified to refer to general program-level disclosure.

Item 4.4 - This Item should be clarified to refer to general program-level disclosure.

Item 5: Property interests in asset pool and priority of payments

Item 5.1 – This Item requires clarification. Issuers can provide a general description of the property/security interests that noteholders generally receive under a transaction; however it is not clear if this Item would also require a set of "risk factor" disclosure similar to prospectus disclosure, which we do not believe is appropriate or necessary.

Item 5.2 – This Item should be clarified to refer to a general description of the parties. As we have previously discussed, for privacy reasons specific names should not be required to be disclosed.

Item 5.3 – Similarly to our concerns in Item 5.2, issuers can provide a general description of the priority claims, but for privacy concerns, they should not be required to disclose specific names.

Item 5.4 – We believe given the disclosure in Item 5.3, this Item is not necessary.

Item 5.5 – It is not clear what scenario or issue this Item is trying to capture. In addition, we believe with the disclosure regarding priority of claims in Item 5.3, this Item is not necessary.

Item 6: Compliance or termination events

Item 6.1 – This Item should be revised to focus on events that will impact investors. The disclosure requirement should be limited to the following events: defaults under the trust indenture, issues with the availability of the liquidity support, and any preconditions to the issuance of the notes.

Item 6.2 – This is a transactional matter and issuers can provide a general description of this Item similar to how it is described in the Bank of Canada factsheet.

Item 6.3 – This is a transactional matter and issuers can provide a general description of this Item similar to how it is described in the Bank of Canada factsheet.

Item 7: Description of short-term securitized product and offering

Item 7(c) – We recommend that these items be removed as they constantly change. For example, interest rates can change daily. It is unclear what benefit investors would derive from disclosure of these items.

Item 7(d) – This information is unnecessary and should be removed.

Item 8: Additional information about the conduit

Item 8.1 – This Item is not necessary given our suggestion for the inclusion of the statement made in Item 3.5. This Item should be removed.

Item 8.2 – This Item requires clarification regarding whether or not it is referring to issuing other firewalled series of notes /securities such as MTNs, subordinated ABCP, etc.

Item 8.3 – This Item should be clarified to refer to general program-level disclosure.

Item 8.4 – This Item should be clarified to refer to general program-level disclosure.

Item 8.5 – This Item should be clarified to refer to general program-level disclosure.

Item 9: Material agreements

Item 9.1 – This Item is overly broad and would require disclosure of agreements that are not as meaningful to investors. The definition of "significant party" is broad and therefore could require disclosure of many agreements that would create marginal value for investors. Rather than being overwhelmed by agreements, investors should be provided with only descriptions of the key documents. This Item should be revised to require only disclosure of the principle ABCP conduit agreements, such as the Declaration of Trust, the Financial Services Agreement, the Trust Indenture, the Liquidity Agreement and the Agency/Distribution Agreement.

Item 10: Summary of asset pool

Specific asset pool information should only be included in the monthly disclosure report. Asset pools change frequently, and thus this information would be inaccurate soon after it was disclosed providing no benefit to investors. For conduits with existing asset pools at the time of an IM, investors are able to access the asset pool information through the monthly reports produced by the conduit. Furthermore, it is not feasible from a cost or timeliness perspective to update the IM for this information in each instance given the frequency with which these items occur. In addition, because this Item can be so fluid, it may be appropriate to allow a link to the issuer's website regarding the monthly investor reporting to ensure the most recently available information is being referenced.

Item 12: Representation that no misrepresentation

If the IIAC's suggestions regarding the contents of the IM are accepted, and the document is treated as a static document, then it is possible to make the following statement:

"This information memorandum does not contain a misrepresentation as of _____ date."

However, as currently drafted, the IM is requesting fluid information that changes constantly and as such, the statement in Item 12 cannot be made.

Appendix C

Form 45-106F8 *Monthly Disclosure Report for Short-term Securitized Products Distributed under Section 2.35.1*

As previously outlined, the IIAC's primary concern with Form 45-106F8 is that it repeats relatively static program-level disclosure that would already be disclosed in an issuer's IM. As a general comment, we believe that the CSA has to strike the appropriate balance between the IM and monthly disclosure report that eliminates duplication and reflects how securitization programs and transactions work. Form 45-106F8 should contain transaction specific information that may vary from period to period while Form 45-106F7 should contain the relatively static program-level information.

While the IIAC appreciates that the CSA extended the time frame to deliver and post each Form 45-106F8 from 15 days to 30 days, we request that the requirement be extended to 50 days to better reflect the actual workings of securitization transactions. Issuers rely on third party servicers, generally sellers, to provide the pertinent information to be included in the monthly disclosure report. Generally this information is not available for a number of weeks after the end of a measurement period and it will take time for the issuer to collect the information, consolidate it and prepare the Form 45-106F8 report. We do not feel a 30 day time frame will be sufficient to complete this work. Based on our discussions with IIAC member firms, we feel that a 50 day time frame is more appropriate. Please see Appendix A and comments on section 2.35.4(5) for an example of the circumstances that result in a timing challenge with the 30 day time frame.

Instructions

An additional instruction should be added clarifying that negative answers to prescribed items or inapplicable items need not be included in the IM. In our view, it is not necessary for investors to read negative statements confirming that an item does not apply to the issuer.

As stated in our response to Form 45-106F7, the required terms to be disclosed in the issuer's glossary are overly broad. We request that the term "principal obligor" be removed and that the definition of "significant party" is revised to remove the originator of the assets and the collector of payments generated by one or the more of the assets.

Item 1: Significant Parties to Securitization Transaction

Item 1.1 – Similar to our response for Form 45-106F7, the identity of the principal obligor, the collector of payments generated by one or more of the assets and the originator of the assets should not be required to be disclosed. In addition, as this information is disclosed on a program-level basis in the IM, it is not necessary to prescribe having this information repeated in the monthly disclosure report.

Item 1.2 – We request that Item 1.2(a) and Item 1.2(b) be removed. The suggested general program-level information would be provided in Item 2 of Form 45-106F7. It is excessive and administratively burdensome to require the issuer to provide additional diagrams of the structure of each securitization

transaction. It could be very time consuming and expensive to provide this information as there may be numerous transactions. Additionally, the Bank of Canada does not require this information, but only requires the general program level information.

Item 2: Program Information

As it is the total amount of the short-term securitized product outstanding that is relevant to investors, we suggest that Item 2 (a) should be revised to only refer to:

> the total amount of short-term securitized product outstanding, ~~including fee amount and all interest payable to maturity~~. Also, we request clarification if this is referring to the ABCP outstanding or the aggregate size of the asset pool program amounts outstanding as they may be slightly different due to, amongst other things, the lags in the settlement process relative to the monthly reporting period for asset pool information.

Item 2(b) requires issuers to calculate both the amounts and percentages of liquidity available. We believe it is unnecessary to require both forms of calculation. In addition, 2(b)(iii) and (iv) are already disclosed in the IM, so it is unnecessary to require the disclosure again in the monthly report. We request that Items 2(b)(iii) and 2(b)(iv) be removed.

Item 2(c) is disclosed in the IM. We do not believe it is necessary to repeat the information in the monthly disclosure report. We request that Item 2(c) be removed.

Item 2(d) can change on a daily basis and is not information that is pertinent to investors. We suggest that Item 2(d) be removed.

Item 3: Flow of funds

The disclosure in Item 3 is provided on a program-wide basis in the IM and is consistent with the disclosure required by the Bank of Canada. The IIAC believes it is duplicative and unnecessary to require the disclosure again in the monthly report.

Item 4: Asset pool

Item 4.2 – The IIAC requests that Item 4.2(c) be removed. The information can otherwise be calculated and it is unnecessary to require issuers to summarize the calculations.

Item 4.3 – As previously stated, the principal obligor should not be required to be disclosed for privacy concerns, and as such, this Item should be removed.

Items 4.4 and 4.5 – The IIAC requests that Items 4.4 and 4.5 be removed as this information will be disclosed in the IM at the conduit level.

Item 5: Second-level Assets

This Item should be deleted in its entirety as any disclosure on second-level assets would be disclosed in Item 4. In addition, having a separate category for second-level assets suggests that these assets are riskier than other assets, which is not accurate, especially with respect to conventional asset classes. For example, the IIAC contends that there is no greater risk to investors if an ABCP issuer purchases a note backed by certain assets, such as credit card receivables or auto loan receivables, than if that ABCP issuer purchased the assets directly.

Item 6: Asset Pool Changes

A requirement to report this Item separately is unnecessary as under Item 8, issuers would be reporting any new asset interests that were added during that reporting period. Accordingly, the IIAC does not see the need to create additional disclosure for information that would be readily apparent to investors.

The IIAC suggests that disclosure on assets that no longer form part of the pool and the reasons assets were added or are no longer part of a pool is irrelevant to investors as investors are interested in the assets that currently comprise the pool and are supporting the short-term securitized products they own. Given the dynamic nature of the asset pools, this requirement would be excessively burdensome for the conduits.

Furthermore, with respect to Item 6(d), committed amounts may not necessarily be funded and commitment levels can fluctuate on a daily basis as the pool composition changes. We request that this Item be deleted.

Item 7: Program compliance and termination events

Items 7(a)(ii) and 7(a)(iv) – Programs are structured in a way that the investor would not be impacted if there was a material amortization event or program event default, or if there was a liquidity draw. The credit and liquidity requirements are put in place to minimize the risk that an investor would be affected. If this information is disclosed, the investor may incorrectly assume it will negatively impact their investment. The IIAC suggests that the required disclosure of these events be limited to circumstances where it could be reasonably be expected to adversely impact the repayments of the ABCP sold to investors.

Item 7(b) – It should be assumed that Item 7(b) exists. We suggest that issuer's disclose only when that statement is no longer accurate, rather than being required to repeat the statement on a monthly basis.

Item 7(c) – The IIAC requests clarification from the CSA regarding whether it would be sufficient to report the Required Credit Enhancement and Available Credit Enhancement under Item 8 to satisfy this requirement.

Items 7(d) and 7(e) – The IIAC requests that Item 7(d) and 7(e) be removed as this information will be disclosed at a conduit level in the IM.

Items 7(f) and 7(g) – The IIAC requests that these Items be moved to the IM. It would be very cumbersome to require this information to be determined monthly. A program-wide disclosure of this information in the IM will provide sufficient information to investors.

Item 8: Securitization transaction summary

Item 8.2 should be amended so that the disclosure for this Item may be provided in either diagram or table form.

Item 8.2(b)(i) – The information referred to is often provided to issuers by various third parties. For existing transactions, contractual agreements may be in place, in which the seller or servicer is not obligated to provide the information. It may therefore not be possible for conduit administrators to disclose this information. The IIAC requests that this Item be removed.

Item 8.2 (c) – We request that this Item be removed, as the IM describes the different manners in which the conduit acquires the asset interests, and we do not believe there is additional value in repeating this information monthly.

Item 8.2(d) – Given that a program may have a large number of obligors and this number can change frequently, this Item may not be meaningful to disclose on a monthly basis. We request that this Item be removed.

Item 8.2(f) – The IIAC questions the relevance of disclosing the credit rating of the originators. Each transaction is structured to a high rating level before being included in the conduit and benefits from transaction specific credit enhancements. As a result, we do not see how the disclosure of the credit rating of the originator is necessary. In addition, by disclosing the credit rating of an originator, investors and other participants may be able to determine the identity of the originator. As outlined in our response regarding the Instructions, the identity of the originator of assets should not be disclosed for a number of reasons, including privacy concerns.

Item 8.2(g) – Since different asset classes can have different performance metrics, the disclosure requirements in this Item should be simplified to "the assets' performance, including asset balances, losses, credit enhancement, and any other performance ratios that an investor would reasonably require in making an informed investment decision in respect of the short-term securitized product". This simplification is also helpful since some of the sub-items listed, such as (i), are subject to various interpretations by the IIAC member firms.

In addition, it would be a significant amount of work to provide the proposed sub-items in (g) and certain sub-items may not provide the investor with relevant information. Our suggestion would provide investors with the relevant information.

Item 8.3 – The IIAC requests that this be restricted to reporting the credit enhancement available to the transaction. It is not clear what entities are to be captured under "transaction credit enhancement provider". In most instances, the enhancement is provided by the seller of the assets through cash, overcollateralization or subordination. We assume and request clarity that the items in 8.3(c) and 8.3(d)

are not relevant for these types of credit enhancement. There are instances where the credit enhancement is in the form of an L/C. This may be provided by a single bank or potentially a syndicate of banks with different ratings. We are unclear on why providing details on each L/C provider would be relevant as long as there is disclosure that each L/C provider meets or exceeds the minimum ratings tests to be an eligible credit enhancement provider.

Item 8.3(b) – This Item requires clarification.

Items 8.3(c) and 8.3(d) – These Items should be disclosed at a program-wide basis in the IM. It is not necessary to disclose this at a transactional level.

Item 9: Material agreements

The IIAC's proposed revisions to the IM disclosure of material agreements would ensure that investors are provided with the relevant disclosure regarding conduit level material agreements. It is unnecessary to require additional disclosure in the monthly report. The IIAC requests that this Item be removed.

Item 10: Fees and expenses

The Item should be disclosed on a program level in the IM. General descriptions of fee types should be provided at the program level. Transaction specific fees, such as those charged by the trustee, are relatively nominal and accordingly, not material to investors.

Item 11: Alignment of interest and conflicts of interest

We request that Item 11 be moved to the IM and that it be amended to require a general description of the alignment of interests and motivations for the parties involved in a transaction to maximize the return on the assets pool.

Item 12: Report Information

The IIAC had no comments on this Item.

Item 13: Implementation

The IIAC is concerned that existing transactions would be penalized trying to comply with the Proposed Amendments, as opposed to new transactions that may start after the effective date. We believe that grandfathering of the Proposed Amendments should be permitted since there have not been any issues with the securitized products that are currently outstanding. Not allowing grandfathering with respect to transactions that have already been completed would impose an unreasonable burden on issuers. The Proposed Amendments should only apply to new transactions.